

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

PETER GAKUBA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 17-cv-1075-SMY
)	
KRISTIE OTEY, et al.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

Plaintiff Peter Gakuba, an inmate in the custody of the Illinois Department of Corrections (“IDOC”), filed this lawsuit pursuant to 42 U.S.C. § 1983, alleging that his constitutional rights were violated while he was incarcerated at Robinson Correctional Center (“Robinson”). Defendant moved for sanctions, asserting that Plaintiff had repeatedly failed to provide responses to written discovery, failed to comply with court orders, and refused to take his properly noticed deposition. On August 8, 2019, the Court ordered Plaintiff to reimburse Counsel for Defendant the costs of the court reporter appearance in the amount of \$264.50 (Doc. 138). Plaintiff was warned that failure to comply would result in this action being dismissed with prejudice. Plaintiff failed to comply with the sanction order and this action was dismissed with prejudice (*see* Doc. 141). Plaintiff filed a Notice of Appeal and moves to proceed on appeal *in forma pauperis* (“IFP”) (Doc. 153). For the following reasons, the Motion is **DENIED**.

A federal court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(1) & (3); FED. R. APP. P. 24(a)(3)(A). An appeal is taken in “good faith” if it seeks review of any issue that is not clearly frivolous; in other words, that a reasonable person could suppose it to have at least

some legal merit. *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000).

Here, Plaintiff's appeal is frivolous. Federal Rule of Civil Procedure 37 permits dismissal of a case when the court finds "willfulness, bad faith or fault on the part of the defaulting party." *Brown v. Columbia Sussex Corp.*, 664 F.3d 182, 190 (7th Cir. 2011). Plaintiff has not set forth an arguable basis in either law or fact for his appeal and there is nothing indicating that his appeal has any legal merit. As such, Plaintiff's appeal is not taken in good faith, and his request to proceed on appeal *in forma pauperis* is denied.

IT IS SO ORDERED.

DATED: February 27, 2020



STACI M. YANDLE
United States District Judge